

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ULYSSES WILLIAMS III,

Petitioner,

v.

PATRICK GLEBE.

Respondent.

CASE NO. C14-5389 RBL-JRC

REPORT AND RECOMMENDATION

Noted for: June 6, 2014

The District Court has referred this petition for a writ of habeas corpus to the undersigned United States Magistrate Judge. The Court's authority for the referral is 28 U.S.C. § 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR3 and MJR4. Petitioner filed the petition pursuant to 28 U.S.C. § 2254.

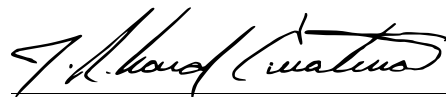
Petitioner asks the Court to grant him in forma pauperis status and waive the five dollar filing fee (Dkt. 1). Petitioner provides a prisoner trust account statement that shows an average spendable balance of just over sixty-eight dollars (Dkt. 2). The Court recommends denying petitioner's motion to proceed in forma pauperis because the financial documents petitioner places before the Court show that he can afford to pay the five dollar filing fee.

1 Petitioner's right to proceed in forma pauperis is not absolute. The Court of Appeals  
2 reviews denials of in forma pauperis status for abuse of discretion. *Denardo v. Collum*, 48 F.3d  
3 1227 (9th Cir. 1995). Further, the Ninth Circuit addressed the denial of in forma pauperis status  
4 over forty years ago and held that proceeding in forma pauperis is a matter within the sound  
5 discretion of the trial court in civil actions. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963).

6 Accordingly, because petitioner has sufficient funds to pay the full five dollar filing fee,  
7 the Court recommends denial of the motion to proceed in forma pauperis.

8 Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have  
9 fourteen (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P.  
10 6. Failure to file objections will result in a waiver of those objections for purposes of de novo  
11 review by the district judge. *See* 28 U.S.C. § 636(b)(1)(C). Accommodating the time limit  
12 imposed by Fed. R. Civ. P. 72(b), the clerk is directed to set the matter for consideration on June  
13 6, 2014 as noted in the caption.

14 Dated this 15<sup>th</sup> day of May, 2014.

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17 J. Richard Creatura  
18 United States Magistrate Judge  
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